



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2018-0224; FRL-9993-54-Region 5]

**Designation of Areas for Air Quality Planning Purposes; Ohio;
Redesignation of the Lake County Sulfur Dioxide Nonattainment
Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Lake County sulfur dioxide (SO₂) nonattainment area from nonattainment to attainment. EPA is also approving Ohio's maintenance plan, which Ohio submitted on April 9, 2018. EPA has approved Ohio's State Implementation Plan (SIP) for Lake County, and the air quality in the area is meeting the SO₂ standard.

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0224. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353-5954, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Public Comments
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. Background

In 2010, EPA established a revised primary SO₂ national

ambient air quality standard (NAAQS) of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). EPA designated the Lake County area as nonattainment for the 2010 SO₂ NAAQS on August 5, 2013 (78 FR 47191) based upon air quality monitoring data for calendar years 2009-2011. The Lake County nonattainment area is comprised of the entirety of Lake County, Ohio.

Ohio was required to prepare a nonattainment plan that would provide for attainment of the NAAQS by the SO₂ attainment date of October 4, 2018 and meet the requirements of sections 172(c) and 191-192 of the CAA. Ohio submitted its plan on April 3, 2015, and supplemented it on October 13, 2015, and on March 13, 2017. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986).

Under CAA section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment. The relevant NAAQS must be attained in the area; the applicable implementation plan must be fully approved by EPA under section 110(k); the improvement in air quality must be determined to be due to permanent and enforceable reductions in emissions; the State must meet all applicable requirements for the area under section 110 and part D; and EPA must fully approve a maintenance plan and contingency plan for the area under section 175A of the CAA. On March 8,

2019 (84 FR 8492), EPA proposed to find that these five criteria have been met for the Lake County nonattainment area, and thus, EPA proposed to redesignate Lake County from nonattainment to attainment of the 2010 SO₂ NAAQS.

II. Public Comments

EPA received no public comments on the March 8, 2019 proposal to redesignate Lake County.

III. What Action is EPA Taking?

EPA is redesignating the Lake County nonattainment area from nonattainment to attainment of the SO₂ NAAQS. Ohio has demonstrated that the area is attaining the SO₂ standard, and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the nonattainment area. EPA is also approving Ohio's maintenance plan, which is designed to ensure that the area will continue to maintain the SO₂ standard.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than

30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves the State of planning requirements for this PM2.5 nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of the geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is

required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal

implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 2, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (e) is amended under "Summary of Criteria Pollutant Maintenance Plan" by adding an entry for "SO₂ (2010)" before the entry "CO (1979)" to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *				
Summary of Criteria Pollutant Maintenance Plan				
* * * * *				
SO ₂ (2010)	Lake County	4/9/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				

PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Section 81.336 is amended by revising the entry "Lake County, OH" in the table entitled "Ohio-2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§81.336 Ohio.

* * * * *

OHIO-2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area ¹	Designation	
	Date ²	Type
* * * * *		
Lake County, OH	[insert date of publication in the Federal Register]	Attainment
Lake County		
* * * * *		

¹Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

²This date is April 9, 2018, unless otherwise noted.

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